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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/806,329

03/23/2004

Youti Kuo

1740

7590

06/12/2006

YOUTI KUO
88 FOXBOURNE ROAD
PENFIELD, NY 14526

EXAMINER

MANAHAN, TODD E

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,329

Applicant(s)

KUO, YOUTI

Examiner

Todd E. Manahan

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6-9 is/are rejected.
- 7) ☒ Claim(s) 3-5,10 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/23/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann (United States Patent No. 2,556,584) in view of Robinson et al. (United States Patent No. 2,401,318).

Hofmann discloses a toothbrush container comprising a tubing 10a having an annular wall 11a with an open top and bottom; a top cap 26a mounted on the open top having a first annular wall and a closed wall; and a bottom cap 26a mounted on the open bottom (see figure 7). Hofmann discloses the invention essentially as claimed except for the opposing vent holes in the tubing and corresponding vent holes in the top and bottom caps. Robinson et al. disclose a toothbrush container comprising a tubing 3 having an annular wall with an open top and a vent hole in the annular wall and a top cap 12 mounted on the open top having a first annular wall and a closed wall with a vent opening 14 in the annular wall selectively positionable with the vent opening in the tubing so as to open and close the vent holes (see figure 2). It would have been obvious to one skilled in the art to provide the toothbrush holder of Hofmann with a vent hole in the annular wall of the tubing and corresponding vent hole in the cap(s) in view of Robinson et al. in order permit passage of air therethrough to facilitate drying of the toothbrush. Regarding the limitation of there being two opposing vent holes in the tubing and the caps, it has been held

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that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann in view of Robinson et al. as applied to claims 1 and 2 above, and further in view of Labranche et al. (United States Patent No. 6,009,886).

Labranche et al. disclose a toothbrush holder having a cap with an upper wall extending therefrom forming a floss dispensing housing with a hinged housing cover and floss cutter 98 mounted on the extending upper wall. The floss cutter comprises a blade element forming a V-shape bent with a mounting base (see figure 1). It would have been obvious to one skilled in the art to provide the top cap of the device of the combination Hofmann as modified by Robinson et al. with an extending upper wall forming a floss dispensing housing with a hinged housing cover and floss cutter mounted on the extending upper wall in view of Labranche et al. in order to provide the user with convenient access to dental floss.

Allowable Subject Matter

Claims 3-5, 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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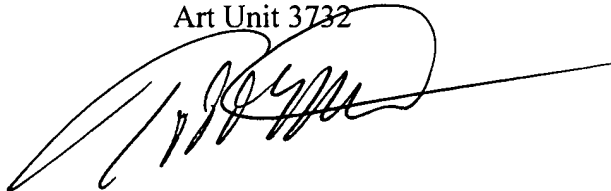
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 571 272- 4713.

The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Todd E. Manahan
Primary Examiner
Art Unit 3732

A handwritten signature in black ink, appearing to read 'T.E. Manahan', with a long horizontal line extending to the right.

T.E. Manahan
8 June 2006